UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26

AMERICAN RED CROSS BLOOD SERVICES,
GREATER OZARKS - ARKANSAS REGION

Employer

and **Case 26-RC-8452**

UNITED FOOD AND COMMERCIAL WORKERS
UNION, LOCAL 2008, AFL-CIO, CLC

Petitioner

ACTING REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION

The Employer, American Red Cross Blood Services, Greater Ozarks - Arkansas Region, is engaged in the business of operating a blood bank with offices and facilities located Little Rock, North Little Rock, Jonesboro, Pine Bluff, Bryant, and Mountain Home in Arkansas, Springfield and West Plains, Missouri, and Memphis, Tennessee. The Employer serves a geographical region that includes the entire State of Arkansas, southwest Missouri, northern Mississippi, and a portion of western Tennessee, primarily Shelby County. The Petitioner, United Food and Commercial Workers, Local 2008, filed a petition with the National Labor Relations Board under § 9(c) of the National Labor Relations Act and seeks to represent the collections specialist I, collections technicians II, and mobile unit assistant employees employed in the whole blood collections department in Little Rock. Following a hearing before a hearing officer, the parties filed briefs with me.

The three issues raised at the hearing and briefed by the parties are (1) whether the Employer is a "health care institution" under Section 2(14) of the Act; (2) whether the petitioned-for unit should include any other whole blood collections department employees; and (3) whether the petitioned-for unit should be expanded to include all the Employer's nonsupervisory personnel employed within the entire region.

The unit sought by the Petitioner would include approximately 47 employees comprised of 27 collections specialists I, 9 collections technicians II, and 11 mobile unit assistants II (MUAs) employed in the whole blood collections department in Little Rock. The Employer contends the appropriate unit should include 54 additional classifications and consist of all 245 non-supervisory employees involved in the collection, processing, and distribution of blood products for the entire region. The parties stipulated that all employees with "charge" responsibilities, including all collections specialists IIs, are statutory supervisors and should be excluded from the unit.

I have considered the evidence adduced during the hearing and the arguments advanced by the parties on each of the issues. As discussed below, I have concluded that the Employer is not a "health care institution" under Section 2(14) of the Act. I have determined that the unit sought by Petitioner, comprised of collections technicians II, collections specialists I and the mobile unit assistants II in the whole blood collections department in Little Rock should not include the Springfield employees performing these jobs but should include the Jonesboro staff who report to the same manager as the Little Rock employees and should include the other employees in the Little Rock and Jonesboro whole blood collections department. I have also decided that the Employer's other employees are properly excluded from the unit. I am directing an election in a unit

comprised of approximately 72 employees that includes all employees in the Little Rock and Jonesboro whole blood collections department.

To provide a context for my discussion of the issues and my conclusions, I will first provide an overview of the Employer's operations and structure. I will then discuss whether the Employer qualifies as a "health care institution" under Section 2(14) of the Act. Finally, I will discuss the facts and my conclusions concerning the scope of the unit.

I. THE EMPLOYER'S OPERATIONS AND STRUCTURE

The Employer is headquartered in Little Rock where it recruits, collects, processes and distributes blood and blood products to more than 70 hospitals and other health care facilities in Arkansas, southwestern Missouri and Shelby County in western Tennessee. The Employer collects blood at various mobile sites (via mobile units) and at fixed sites located in Little Rock, North Little Rock, Jonesboro, Pine Bluff, Springfield, and West Plains. The Employer also maintains a facility in Mountain Home, Arkansas where it collects platelets and a facility in Bryant, Arkansas where telerecruiters work. Two hospital services department employees are located in Memphis, Tennessee. Employees are permanently stationed at the Employer's offices in Little Rock, Jonesboro, Springfield, Bryant, and Memphis. In addition, an unspecified number of employees have a "home base" in Little Rock, Springfield or Jonesboro, but live some distance from those locations, receive work schedules by mail, and report by telephone to the "home base" location. These employees drive directly from their homes to the mobile or fixed site location where they are assigned to work. Certain donor recruitment representatives and other employees, such as the diversity coordinator in the preparation lab, work out of home offices located in various parts of the region.

The Employer collects blood at both mobile and fixed sites. The Little Rock fixed site is open six days a week, while Jonesboro is open four days a week, and North Little Rock is open 3 days a week. A significant amount of the Employer's blood collection operation occurs in mobile units away from fixed site locations. Typically, the Employer conducts about 15 to 20 blood collection operations each weekday. On the weekends, the Employer conducts about 6 to 7 blood collection operations per day.

The Employer collects donations for both whole blood and for apheresis, which involves separating blood into its components, retaining the desired products, such as platelets, and returning the rest to the donor. The Employer's fixed sites for whole blood collection are located in Little Rock, Jonesboro, North Little Rock, and Pine Bluff, Arkansas and in Springfield and West Plains, Missouri. Donor collections for apheresis occur at the Employer's facilities in Little Rock, Jonesboro and Springfield and also at a site in Mountain Home, Arkansas.

Based upon estimates provided by the Manager of the Whole Blood Collections Department for Little Rock and Jonesboro, the Employer conducts about 4500 to 5900 blood drives per year throughout the entire region. This total includes approximately 2500 blood drives scheduled per year by the Little Rock scheduler, Sheila Durham, or her back-up.

With regard to supervisory and management structure, Chief Executive Officer David Chumley is responsible for overall operations. One director and nine managers report directly to Chumley. They are Donor Services Director Mike Forell, Human Resources Manager Ted Kelley, Whole Blood Collections Manager (Little Rock and Jonesboro) Mary Ann Burgess, General Services Manager Keith Stevens, Technical

Services Manager Arthur McDade, Education Department Manager Chris Patton, Hospital Services/Product Management Manager John Bradford, Donor Suitability Manager Paula Griffith, Senior Account Manager M. Fairley, and Regional Account Manager K. Patton.

The employees that the Petitioner seeks to include in the unit – the Little Rock-based collections technicians II, collections specialists I and MUAs – all work at mobile blood drives and are part of the whole blood collections department for Little Rock and Jonesboro that is managed by Mary Ann Burgess. The other departments that include employees the Employer asserts should be included in the unit are whole blood collections for Springfield, apheresis, donor suitability, donor recruitment (including telerecruiting), information services, volunteer services, education, general services, hospital services/product management, and technical services. Four of those departments - volunteer services, apheresis, whole blood collections for Springfield, and donor recruitment - are overseen by the Donor Services Director. Each of these departments and the classifications included in each department are discussed below.

II. WHETHER THE EMPLOYER IS A HEALTH CARE INSTITUTION

The Employer contends that it is a health care institution within the meaning of the Act so that the Board's rules and regulations concerning health care institutions govern the appropriateness of the unit. The Petitioner claims that the Employer failed to present sufficient evidence to warrant such a finding.

Section 2(14) of the Act defines "health care institution" as "any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged person[s]." In cases where there is no indication that a blood bank performs activities other than the collection, processing and distribution of blood and blood products, the

Board has found that the blood bank is not a health care institution within the meaning of the Act. *Dane County American Red Cross*, 224 NLRB 323 (1976); *Green County American Red Cross*, 221 NLRB 776 (1975); *Sacramento Medical Foundation Blood Bank*, 220 NLRB 904 (1975); *San Diego Blood Bank*, 219 NLRB 116 (1975). However, when a blood bank extends beyond these services and performs therapeutic apheresis and therapeutic phlebotomies, both of which indisputably involve patient care, it will be viewed as being a health care institution within the meaning of Section 2(14) when it performs such functions with sufficient regularity and in a sufficient number. *Syracuse Region Blood Center*, 302 NLRB 72, 73 (1991) (between 400 and 600 therapeutic apheresis and therapeutic phlebotomies combined – compared to 94,000 whole blood donations and 1500 non-therapeutic apheresis procedures – were found to be sufficiently regular and in sufficiently large number to establish that employer was a health care institution).

Here, the Employer does not perform therapeutic apheresis, which involves the periodic removal and separation of whole blood where the diseased or unwanted components are discarded and the rest is returned to the patient. During its 2004 fiscal year ending June 30, 2004, the Employer performed only 198 therapeutic phlebotomies, which involve the removal of whole blood from individuals with too many red blood cells.

During its 2004 fiscal year, the Employer collected 126,251 units of whole blood and 13,544 units of apheresis blood products. Of the 13,544 apheresis collections, 107 were granulocyte apheresis collections, which involved removal of white or red blood cells, and the remainder were platelet collections.

The Employer's fiscal year 2004 collections included 1,184 units of directed donations, which are donations of whole blood or components for a specific individual, and 2,549 units of autologous donations, which are donations from an individual who will receive his own blood during a subsequent procedure. None of the blood products are administered to the intended patient at the Employer's facility or by any of the Employer's personnel.

The Employer's medical director, Glen Baker, is responsible for authorizing and distributing the blood products only; he is not responsible for administering the product to the intended patient. Instead, the product is delivered to the hospital or health care facility where it is administered by the patient's own physician. Baker occasionally consults with physicians concerning a product's compatibility with a particular patient or the personal physicians of donors who tested positive for an infectious disease, such as HIV or hepatitis.

The Employer provides blood products to bone marrow transplant programs and a special whole blood product with anticoagulant added to Children's Hospital for its use in cardiovascular surgery.

The Employer requests that administrative notice be taken of Case 26-RC-7876 where the Regional Director approved a stipulation that the American Red Cross Blood Services Region headquartered in Nashville, Tennessee is a health care facility within the meaning of the Act. However, that decision involved a different employer. In Cases 26-RC-7858 and 26-RC-8182, which involved this Employer, the health care status was a disputed issue and the Regional Director determined that the Employer is not a health care institution under the Act.

In its brief, the Employer cites *Oklahoma Blood Institute*, 265 NLRB 1524 (1982) for the proposition that a blood bank that performs apheresis is a health care institution. In that case the Board's finding that the employer was a health care institution was predicated on a stipulation by the parties and was not based on an independent analysis of the facts. Moreover, the employer in that case performed a patient blood transfusion procedure that was administered on a clinic or out-patient basis. This procedure appears to more closely resemble the therapeutic apheresis procedure relied upon by the Board in *Syracuse Region Blood Center* as involving patient care, rather than the apheresis procedure administered by the Employer here. In *Syracuse Region Blood Center*, the Board specifically rejected the argument that the employer's performance of donor apheresis and autologous collection is an indicator that an employer is a health care institution. 302 NLRB at 73.

As was true in the earlier decisions involving this Employer, it still performs no therapeutic apheresis. Regarding therapeutic phlebotomies, the record reveals that the Employer performed only 198 such procedures during the past year, even fewer than the 220 therapeutic phlebotomies it conducted in 1999, while the number of whole blood units collected increased from 104,000 units in 1999 to 126,251 in fiscal year 2004. In the circumstances here, I find the Employer does not perform either therapeutic apheresis or therapeutic phlebotomies with sufficient regularity and in a sufficient number to be viewed as being devoted to the care of sick persons. Thus, the Employer is not a health care institution within the meaning of Section 2(14) of the Act and I will apply the traditional community of interest test to determine the appropriate unit here. *Syracuse Region Blood Center*, supra.

III. WHOLE BLOOD COLLECTIONS EMPLOYEES

Whole blood collections employees collect blood from donors at both mobile and fixed sites. Whole blood collections are handled by two departments, one that includes both Little Rock and Jonesboro employees and another that includes just Springfield employees. Mary Ann Burgess manages the Little Rock and Jonesboro whole blood collections department and reports directly to CEO Chumley.[1] Reporting directly to Burgess are a collections operations supervisor in Little Rock, a collections operations supervisor in Jonesboro, an MUA supervisor,[2] and the scheduler. The Little Rock and Jonesboro collections department also includes about 18 collection specialist IIs, or team supervisors, and about 54 non-supervisory whole blood collection employees who are based in Little Rock and 18 who are based in Jonesboro.

Pam Mitchell manages the Springfield whole blood collections department and reports to Director of Donor Services Forell, who reports to CEO Chumley. The record is unclear about who reports directly to Mitchell and how many supervisors are in her department. About 32 whole blood collections employees are based in Springfield.

Collections department employees who staff blood drives typically work on teams consisting of collections technicians, collections specialists, MUAs, and charge supervisors. Other employee classifications in the whole blood collections departments are scheduler, collections compliance specialist II, special donations coordinator,

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[1] This reporting relationship has changed since the 2000 Decision and Direction of Election involving the Employer.

[2] The record is unclear as to whether the MUA supervisor supervises the MUAs in both Little Rock and Jonesboro.

administrative assistant II, clerical assistant I, collection inventory coordinator, and eBDR[3] system specialist.

I will first discuss the duties of the petitioned-for employees in Little Rock. Then I will consider whether the unit should include employees in the same classifications who are based in Jonesboro or Springfield. Then I will consider whether the unit should include any other employees in the whole blood collections department.

A. Collections Technicians, Collections Specialists and MUAs

The **collections technician** is an entry-level position requiring a high school diploma with venal certification. There are no collections technicians I at present, only collections technicians II. Nine collections technicians II are based in Little Rock.

Collections specialists are more experienced employees, often possessing certification as a licensed practical nurse (LPN) or an emergency medical technician (EMT) certification. Collections Specialist I is the highest nonsupervisory classification. There are 27 collection specialists I in Little Rock.

Collections technicians and collections specialists complete the blood donor records, take the donor's health history, perform a pre-check in order to determine whether the donor is eligible to give blood, and draw the blood from the donor.

MUAs drive, load, and unload the vehicle for mobile blood drives. They are also responsible for making sure that adequate supplies and equipment are taken along. These employees usually complete the transporting and receiving checklist and confirm that the collected blood is properly packed and labeled for delivery to the courier who transports the collected blood to the Employer's lab in Little Rock. The MUA may also monitor

[3] "eBDR" stands for "electronic blood donation record."

donors in the canteen who do not feel well following the donation. There are 11 MUAs in Little Rock.

The Little Rock collection center operates 6 days per week and is regularly staffed with four people. The same individuals do not always work in the center but certain employees regularly work there. All the technicians and specialists based in Little Rock are at times assigned to mobile operations.

The Employer operates mobile collections 7 days per week. The teams working on the mobile collections consist of a charge supervisor, collections technicians, collections specialists and an MUA. The Little Rock collections staff includes an unspecified number of employees who work from their homes in El Dorado and Pine Bluff Arkansas. These employees report in and out by telephone to the Little Rock Center and go directly to the mobile site. All other collections staff working on a mobile operation meet at the Employer's facility, clock in, and then depart as a group in the Employer's vehicle from there. The collections staff is not allowed to eat during a blood drive so the team normally stops for a meal before they arrive at the blood drive. Employees on a mobile collection team work different hours each day, work on the weekends, and spend nearly all of their working time away from the Little Rock facility.

The collections staff[4] have a strict dress code policy and a separate policy and procedure handbook from all other employees. This handbook contains distinct attendance policies, among other items. The collections staff is all paid hourly and eligible for overtime. Their schedule varies from week to week and involves occasional overnight stays.

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[4] Collections technicians, collections specialists and MUAs will hereafter be referred to collectively as the "collections staff."

Sheila Durham and her back-up Peggy Price prepare the schedules for Little Rock-based collections staff. Requests for time off are submitted to the scheduler but are granted or denied by Manager Burgess.

B. Collections Staff in Jonesboro and Springfield

As noted above, Manager Burgess is also responsible for whole blood collections in Jonesboro, which is located approximately 130 miles from Little Rock. Collections staff based at the Jonesboro facility are 3 collections technician IIs, 10 collections specialist Is, and 4 MUAs. Martha Rodgers prepares the schedules for these employees. Little Rock scheduler Durham fills in for Rodgers as needed. The Jonesboro collection center has two staff assigned to it on the 3 days per week it is open. One of those employees works there regularly. The Jonesboro staff work at the approximately 17 mobile drives in Memphis each month. Little Rock collections staff also sometimes work on the Memphis mobile drives.

The Springfield facility is approximately 215 miles from Little Rock. The collections staff based at the Springfield facility are 13 collection tech IIs, 12 collections specialist Is, and 6 MUAs. The record is unclear about the number of staff normally working at the Springfield collections center. Stephanie Hellenberger, who is classified as an administrative assistant II or III, is the scheduler for the Springfield-based collections staff.

The collections staff based in Jonesboro and Springfield perform the same duties as the Little Rock-based collections staff. Collections staff from all locations meet in Little Rock for quarterly training or staff meetings. In addition, new collections staff based in Little Rock and Jonesboro participate in 4 weeks of training in Little Rock. New employee

training for Springfield collection employees is conducted in Springfield by an education coordinator located in Springfield.

While each of the schedulers primarily assigns work to the collections staff based at the scheduler's own location, they may create mixed collections teams which combine staff from the various locations on an as-needed basis. Although the Employer's witnesses testified that the collections staffs from all locations "frequently" worked together at mobile locations, the schedules the Employer produced at hearing did not confirm such frequency. Out of approximately 2,500 collections during the past year, the schedules showed only 80 occasions when a Little Rock-based employee worked with Jonesboro staff and only 4 times with Springfield staff. These schedules showed that one Little Rock collections specialist who testified at the hearing worked with collections staff from Springfield or Jonesboro on 8 or 9 days during the past year and was scheduled for two other times when she said she did not work with them. The schedules also showed that two other Little Rock collections employees who testified at hearing worked 7 days and 4 days, respectively with Jonesboro staff.

As already noted, the Petitioner seeks a single-location unit including only the collections staff based in the Little Rock facility. The Employer argues that any appropriate unit must include the collections staff in all of its locations. Thus the Employer argues that a multi-location unit must be found appropriate herein.

With respect to unit determinations regarding employees at a single versus multilocation units, the Board has long held that a petitioned-for single-facility unit is presumptively appropriate, unless it has been so effectively merged into a more comprehensive unit, or is so functionally integrated, that it has lost its separate identity.

Trane, 339 NLRB 866, 867 (2003) citing *J & L Plate, Inc.*, 310 NLRB 429 (1993). The party opposing the single-facility unit has the heavy burden of rebutting its presumptive appropriateness. Id. However, the Board "has never held or suggested that to rebut the presumption a party must proffer 'overwhelming evidence . . . illustrating the complete submersion of the interests of employees at the single store,' nor is it necessary to show that 'the separate interests' of the employees sought have been 'obliterated.'" *Petrie Stores Corp.*, 266 NLRB 75, 76 (1983).

To determine whether the single-facility presumption has been rebutted, the Board examines a number of community of interest factors, including (1) central control over daily operations and labor relations, including the extent of local autonomy; (2) similarity of employee skills, functions, and working conditions; (3) the degree of employee interchange; (4) the distance between the locations; and (5) bargaining history, if any exists. *J & L Plate, Inc*., 310 NLRB at 429; *R & D Trucking, Inc*., 327 NLRB 531 (1999).

Here there is central control over labor relations and daily operations. The Jonesboro and Little Rock employees are part of the same organizational unit under the supervision of the same manager, Mary Ann Burgess. Springfield employees, however, are supervised by a different manager and are part of a different department under the director of donor services.

The employee skills, functions, and working conditions of the collections staff based at all three locations are the same. The amount of interchange between employees at the Little Rock and Springfield location is very limited. Interchange between Little Rock and Jonesboro employees is more frequent. The Little Rock and Jonesboro collections

employees participate in training together and work together on the same blood drives on a regular basis.

The distance between the Little Rock and Springfield locations, about 215 miles, is significant and likely explains the limited interaction between employees at those locations. The distance between Little Rock and Jonesboro is less, about 130 miles, although still significant. However, because most collections employees regularly work at blood drives some distance from the Little Rock collections center, this distance is less significant.

There is no history of collective bargaining involving the petitioned-for employees although two elections have been conducted in units that included these employees. I note that in those elections, the petitioning labor organizations sought different units of employees and that some organizational changes have occurred since the last election in 2000.

Based on the infrequency of contact between the Little Rock and Springfield employees and the separate supervision and organizational structure, I find that the record does not support requiring the inclusion of the Springfield collections employees, notwithstanding their similarity of duties. However, because of the similarity in duties, the central control over daily operations and labor relations, and the fact that the Little Rock and Jonesboro employees come in regular contact with each other, I find the Jonesboro collections staff should be included in the unit found appropriate here. In so finding, I note that the Little Rock collections staff already includes employees who work out of their homes in Pine Bluff and El Dorado who do not physically report to the Little Rock center. El Dorado is approximately 120 miles south of Little Rock while Jonesboro is about 130

miles northeast of Little Rock. While a geographic distance of 130 miles between facilities is significant, here its significance is diminished by the fact that some employees are dispatched from their homes, most employees regularly travel and work at locations a significant distance away from the Little Rock center, and the areas served by the two collection centers are not rigidly defined and served by only one center. See *Trane*, 339 NLRB at 867. In these circumstances I find that the Employer has rebutted the presumptive appropriateness of the petitioned-for single facility unit and I will include the Jonesboro collection employees in the unit found appropriate here.

The Petitioner asserts that the records produced by the Employer establish that the contact between the Little Rock and Jonesboro employees is "rare" and asserts that the fact they work the same drives at different times is of no consequence. I disagree. In finding the contact rare, Petitioner does not include the interaction of staffs during training and the regularly scheduled staff meetings. I also find that working the same drive, although at a different time, is relevant to a community-of-interest determination as the conditions at a blood drive are part of the working conditions for these employees.

C. Other Employees in the Whole Blood Collections Departments

The other employees within the collections department are one compliance specialist II, one collection inventory coordinator, one clerical assistant I, one eBDR system specialist, three special donations coordinators, one scheduler, and one administrative assistant II.

The **compliance specialist II,** Nina Olbera, is based in Little Rock and has document control responsibilities. Because she speaks fluent Spanish, she also goes out on mobile drives to Jonesboro, Memphis and other locations when her bilingual skills are

needed. Burgess estimated that Olbera goes out on drives about 10 times per month. Olbera works a regular schedule when she is not assigned to a mobile drive. One of the Petitioner's witnesses testified that she saw the compliance specialist at blood drives only rarely although she acknowledged that the compliance specialist accompanied her collections team on an overnight trip to El Dorado, Arkansas in October. Another employee witness testified that she only saw the collection specialist at a blood drive on one occasion and then only for a period of about 30 minutes. Prior to becoming the compliance specialist II, Olbera was a collections specialist I.

The **collection inventory coordinator,** Lynn Birch,[5] is based in Little Rock. He maintains a warehouse of collections supplies inside the main building of the Little Rock center and makes sure there are adequate supplies on hand to equip all the mobile operations. He obtains his supplies from the general services department's main warehouse in a separate building located behind the Little Rock center. He works a regular schedule and does not wear a uniform. He has daily contact with collections staff who obtain supplies from him for blood drives. He is trained as an MUA and goes out on mobile drives, although the record does not establish how frequently that occurs.

The **clerical assistant I,** Pam Mullins, is located in Jonesboro. She answers incoming phone calls for the Jonesboro facility, handles all the receiving of goods for the collections department at that location, and makes hotel arrangements for collections teams who are required to stay overnight. She has a fixed schedule and does not wear a uniform. There is no evidence that she is ever involved in any blood collection procedures or otherwise participates in drives.

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[5] The correct spelling of this individual's name is unclear as it is spelled several ways in the transcript.

The **eBDR system specialist,** Dennis Sorrows, is responsible for the proper functioning of the 37 laptop computers in the region that are used in mobile operations to prepare and print the electronic blood donation records necessary for blood donation. Burgess testified that the eBDR systems specialist was hired in September and has gone out on blood drives weekly to help with the computer system. One employee witness testified that she has never seen the eBDR system specialist on a blood drive. He is also now training all collections staff on e-binder, a new document control system.

The three **special donations coordinators** work at the Little Rock center from 8 a.m. to 4:30 p.m. They schedule and coordinate autologous and directed donations. All donations of this type are scheduled in advance at one of the Employer's fixed sites. The special donations coordinators prepare the paperwork for the collections staff and they also interact with the laboratory staff that will be testing and processing those donations. The employees who testified for Petitioner in this proceeding indicated that they had minimal interaction with the special donations employees. This interaction occurs when collections staff is assigned to the Little Rock fixed site on a day when a special donation is scheduled and consists of the collections specialist or collections technician picking up the paperwork from the office of a special donations employee when it has not been provided to the charge staff in advance.

Only one individual is classified as a **scheduler**, Sheila Durham. Durham works at the Little Rock collections center preparing schedules for the Little Rock collections staff and receiving their time off requests. She also serves as the back-up to the person doing scheduling for Jonesboro. Durham does not go out on mobile operations or otherwise performs tasks related to blood collection. Peggy Price serves as a backup scheduler for

Durham 3 days a week. The remainder of her time, Price goes out on blood drives as a charge. Scheduling of Jonesboro employees is handled by Martha Rodgers who also serves as a charge on blood drives. Although neither the Employer nor the Petitioner has sought to exclude the scheduler as a supervisor, the scheduler appears to work largely autonomously and to exercise some discretion in assigning work to the collections staff. She also reports attendance policy infractions to management and makes recommendations as to the granting or denial of paid time off. The record does not establish whether those recommendations are effective or the extent of her discretion and independent judgment.

The **administrative assistant II** works in Springfield under the supervision of Manager Mitchell and performs the scheduling for the Springfield-based collections employees. The record does not otherwise establish the duties or conditions of employment of the administrative assistant II.

The Petitioner seeks to exclude these collections department employees on the basis that they have different hours of work, training and skills, do not wear uniforms, and lack significant contact with other employees. While it is true that their hours of work are fixed and they wear uniforms, I find that, with the exception of the administrative assistant II in Springfield, they share a sufficient community of interest with the other unit employees to require their inclusion. In so finding, I note that they are part of the department managed by Burgess and that their duties are an integral part of the process for whole blood collection. With regard to contact, the record establishes that the compliance specialist II formerly held a position that the Petitioner seeks to include in the unit and that she still works on blood drives as a translator. The collection inventory coordinator is trained as an MUA and still functions in that capacity some of the time. He also regularly

interacts with collections staff when providing supplies to them. The eBDR system specialist is also out on blood drives and is currently training collection staff to use a new software program for their work. The clerical assistant I makes hotel reservations for the overnight stays of collection staff and handles purchasing and answering the phone at the Jonesboro site. The special donations coordinators' interaction with collections staff is more limited but since they have some interaction and would be the only employees in their department not included, I will include them here. I will not include the administrative assistant II since she works in Springfield in a different department under a different manager. As for the scheduler, because of the evidence suggesting possible supervisory status, I will her permit her to vote subject to challenge.[6]

IV. DEPARTMENTS AND CLASSIFICATIONS OUTSIDE THE WHOLE BLOOD COLLECTIONS DEPARTMENT

Finally, I turn to the Employer's contention that an election should be directed in a wall-to-wall unit. The Board has approved other than wall-to-wall units in blood bank-type settings. In *Sacramento Medical Foundation Blood Bank*, 220 NLRB 904 (1975), the Board sanctioned a unit limited to medical laboratory technologists only. In *Greene County Chapter American Red Cross*, 221 NLRB 776 (1975), the Board found appropriate a unit limited to blood dispatchers, rejecting the employer's argument that such a unit was inappropriate inasmuch as it excluded nurses who worked with the dispatchers. In finding a blood dispatchers' only unit appropriate, the Board applied community of interest factors. Similarly, in *Midwest Region Blood Services*, 324 NLRB 166 (1997), the Board approved a unit of collection employees, MUAs, and supply clerks. Most recently, in

[6] The two other individuals performing scheduling duties are already excluded from the unit because they perform charge duties.

Laboratory Corp. of America Holdings, 341 NLRB No. 140 (2004), the Board found appropriate a multi-facility unit of phlebotomists, administrative team leaders, technical team leaders, and reference clerks that excluded customer service representatives and drivers. Thus, there is ample precedent that less than wall-to-wall units are appropriate in blood bank-type settings. Moreover, as discussed below, consideration of traditional community of interest factors also support the conclusion that a unit limited to collection employees is appropriate.

The Employer argues that because its operations are so functionally integrated, a wall-to-wall unit is appropriate and that the community of interest between all its employees is so strong that a broader unit is required. This argument has been rejected in two prior decisions involving the Employer and I find the changes that have occurred since the last decision are insufficient to require a different result, particularly where, as here, the primary factors relied upon in those decisions have not changed. Additionally, as explained below, I find that there are relatively few similarities between the working conditions of the employees in the petitioned-for unit and employees in other departments and that there is limited interaction with employees in other departments. The Employer adduced evidence of only four instances where there was movement between the whole blood collections department and another department. I consider this level of interchange to be de minimis. Accordingly, I do not find that the community of interest of the other employees is strong enough to mandate their inclusion in the petitioned-for unit.

J.C. Penney Co., 328 NLRB 766 (1999), relied upon by the Employer to support its request for a broader unit, is distinguishable from the instant case. There, the Board included telemarketers over the petitioner's objections where the evidence showed they

were loaned to other "included" departments when work demands required extra help; they participated with all employees in the annual inventory; they performed common functions with certain other employees regarding customer inquiries; and there was evidence of routine permanent interchange and some temporary interchange between telemarketing employees and other included employees. In adding telerecruiters to the unit, the Board relied upon the fact that the telerecruiters worked in the same building, had similar skills, performed similar functions, and had substantial contact with the other employees included in the unit. That is not true here.

Apheresis Department

Apheresis is a process whereby platelets or another blood component are taken out of the whole blood and the blood is immediately returned to the donor minus the collected component. It involves the use of complex equipment that is not used in whole blood collections. The apheresis function occurs at fixed site locations, rather than mobile sites. In addition, the Employer's fixed site in Mountain Home, Arkansas performs solely apheresis. No whole blood collections occur at this location.

Although Burgess testified about the duties of a "collection tech" in apheresis compared to a collections tech in whole blood collections, the Employer's Exhibit 12 does not show that it employs any collections technicians in the apheresis department. This exhibit shows that the apheresis department has 8 **collections specialist Is** and 10 **collections specialist IIs**. Of these 18 employees, only 3 collections specialist IIs are located in Little Rock. Apart from their use of the equipment unique to apheresis, the actual collection procedures performed on donors by these employees are similar to those

of the collections technicians and collections specialist who work in the whole blood collections department.

Although the apheresis staff may occasionally assist the whole blood collections staff at a fixed site location by taking donor histories when the need arises, the record does not establish that this happens regularly. The apheresis procedures are performed in areas adjacent to whole blood collections at the Employer's fixed site locations where both collection processes occur. At these locations, the employees from both departments share common break rooms, parking and rest room facilities. The record also demonstrates, however, that the apheresis staff are not involved in mobile operations and have regular work schedules that conform to the hours of operation of the Employer's fixed site locations. They are grouped in a separate department from whole blood collections and have wholly separate supervision from the collections staff in the petitioned-for unit. The apheresis employees are not subject to the same unique personnel policies that apply to the collections staff. The Employer adduced evidence of only two instances where an employee transferred between the apheresis and whole blood collections departments. Of these two instances, one occurred at the Springfield location. The record does not reveal the location involved in the second transfer.

The Petitioner's witnesses consistently testified that they have little to no interaction with apheresis department employees on occasions when they are assigned to the Employer's fixed site locations.

The Employer's Exhibit 12 also shows that the apheresis department includes two employees in the "administrative assistant TR" classification (one each in Little Rock and Springfield) and a telerecruiter in Jonesboro. Although these employees appear to be

involved in telerecruiting for apheresis, neither the hearing record in this case nor the prior Decisions involving the Employer provide additional details about the duties or working conditions of these classifications.

While there is evidence to support the both the inclusion and exclusion of apheresis department employees in the petitioned-for unit, I find that the weight of the evidence does not demonstrate that they share similar working conditions or a sufficiently strong community of interest with the collections staff to require their inclusion in the unit.

Donor Suitability Department

The donor suitability (hereinafter "DS") department is composed of approximately 15 employees. They enter blood donor records and donor demographic information into the computer. This process creates donor records that alert the Employer if an individual is a repeat or first time donor. The department also notifies donors of positive test results, such as HIV or West Nile virus; conducts some follow-up for individuals with certain positive test results; and enters deferrals when an individual fails to meet the Employer's criteria. Blood cannot be labeled until donor information is entered into the computer.

The DS employees also perform a quality control function for the blood donation records and the daily log maintained for each collection operation, whether at a mobile or fixed site location. Three or four employees classified as **compliance specialists I and II** perform these reviews. These compliance counselors do not go out on mobile drives and do not take donor histories or perform phlebotomies. According to DS department manager Paula Griffith, when problems with donor records or logs are encountered, the mobile staff may be contacted by the compliance specialist. In addition, there are times when a question arises concerning a particular donor and the mobile staff may contact

someone in DS for guidance. Petitioner's witnesses testified that these contacts between the mobile staff and the DS department involve the charge staff on the mobile.

There is one **donor counselor I** and one **donor counselor II** position. These employees counsel donors who have received positive test results and manage donor follow-up programs. Donor counselors have contact with employees in the reference lab regarding blood typing and other tests. These employees are required to have a bachelor's degree or equivalent experience.

The DS department also includes one **records management specialist** and three **records management technicians** who perform data entry of information in the eBDRs and review the information to make sure the data has been entered properly. They are also responsible for ensuring that records are properly stored and maintained. Records management specialists are required to have a high school diploma or the equivalent.

There is one **administrative assistant II** who also performs data entry for blood donor records and deferrals and is responsible for entering mobile drive identification numbers into the computer system which the collection staff must reference on that drive. This employee may also respond to questions from the mobile collection staff regarding blood types, numbers of donations, etc. As was noted in the 2000 Decision, since DS services may be needed on a 24-hour basis, the record management technicians and administrative assistant share "on call" duties and wear a pager on a rotating basis.

Since 2000, the DS department has expanded to include two **problem management technicians** and two **problem management specialists**. When someone within the Employer's region identifies a problem, the information is forwarded to this team of problem management employees. The technicians are responsible for data entry

into the computer system and ensure that the necessary information has been obtained. Problem management specialists analyze the more complicated problems and develop corrective action plans and work with staff on issues that are identified. There was testimony that a problem management specialist recently met with the collections department staff in Jonesboro to deal with an issue. Petitioner's witnesses, however, testified that they have not had any direct involvement with these problem management employees. The Employer acknowledged that this problem management process had been in place for only two months at the time of the hearing.

All employees in this department work at the Little Rock center and are supervised separately from other employees. The employees work varied schedules, with at least one employee being on call 24 hours a day. As for employee transfers and interchange, the Employer's records reveal only one recent instance in which a transfer occurred between the DS department and the whole blood collections department. Employees in the DS department wear business casual attire rather than uniforms.

Although the record reveals evidence to support both the inclusion and exclusion of DS employees, viewing the record as a whole, there are sufficient differences in duties and other working conditions between DS employees and the collections staff that the inclusion of DS employees in the unit is not mandatory. Donor counselors have higher educational requirements than any of the included employees. There is no evidence of commonality of duties or functions with regard to any other DS employees and the included employees. Contrary to most of the included employees, DS employees are permitted to wear business casual clothing and generally work at desks in an office or

cubicle. DS employees have completely separate supervision from the included employees.

Donor Recruitment Department, Including Telerecuiting

Although there was testimony at hearing about a donor recruitment department and a telerecruitment department, the Employer's organizational chart shows only one department which is identified as donor recruitment, with two managers, Rick Bufford and Sandy Goodwin. About 13 employees work in telerecruiting and about 20 employees work in donor recruitment.

Concerning the telerecruiting, one telerecruiter is located in Springfield, Missouri. The other telerecruiters work at a facility in Bryant, Arkansas, located just outside Little Rock.[7]

As noted in the 2000 Decision, the **telerecruiters** work in cubicles and make cold calls or use a computerized list of former donors and other targeted potential donors. They work varying hours with shifts starting daily at 3 p.m. The telerecruiters do not have face-to-face contact with the Little Rock personnel or the collections staff. The Springfield telerecruiter works in an office area next to the donor area, serves as the receptionist for the whole building, and schedules appointments for apheresis donors. All of the telerecruitment department employees are paid an hourly wage and are eligible for a bonus under the Employer's incentive plan.

[7] Although Employer's Exhibit 12 lists 10 telerecruiters in Little Rock, given the close proximity to Little Rock and the absence of any reference on that exhibit to Bryant, it appears the 10 listed under the Little Rock column are actually located in Bryant.

The telerecruitment department also has one employee classified as an **administrative assistant I** and one **administrative assistant II**. Neither the hearing record nor the 2000 Decision details the job responsibilities of these two employees.

Consistent with the 2000 Decision, the record evidence reveals that the telerecruiters do not interact with the undisputed employees to any significant degree. There may be some telephone contact with the collection staff on mobile drives, but Petitioner's witnesses testified that such telephone contact is with the charge staff and not the collections staff. There is no evidence of commonality of duties or functions between telerecruiters and the included employees. The telerecruiters work at desks in an office setting where they make calls to potential donors. The record reveals no evidence of transfers between the telerecruitment department and the whole blood collections department. Based on the distinctions noted above, I shall exclude the telerecruitment department employees from the unit found appropriate herein.

With regard to the donor recruitment department, Employer's Exhibit 12 shows that one administrative assistant I, one administrative assistant II, and four donor recruitment representatives (DRRs) are located in Springfield; one DRR is located in Jonesboro; and two administrative assistant IIs, one administrative assistant III, one communications specialist, two customer service representatives, and seven DRRs are located in Little Rock.

The **DRRs** spend most of their time making calls to schools, businesses, and other organizations that may sponsor a blood drive and setting up blood drives. Bufford testified that DRRs frequently visit the blood drives, especially the larger ones or one at a new location, and on such occasions offer assistance, if needed, to collection employees. DRRs

at mobile locations may also serve as a liaison with the volunteers, greet donors, and hand out promotional items and donor satisfaction surveys. The Petitioner's witnesses consistently testified that when DRRs are present at mobile drives, they often stay for only a few hours, if that long. Petitioner's witnesses also testified that the DRRs do not interact with the employees who are collecting blood, but will communicate with the charge staff or the MUA to check on the number of units collected.

Bufford testified that he oversees one DRR based in Jonesboro, one DRR in Little Rock, and two DRRs in Springfield. Bufford also testified that he is responsible for two DRRs in northwest Arkansas and one in Fort Leonard Wood, Missouri, who all apparently work from their homes. It is unclear who supervises the five remaining DRRs. In addition, Bufford supervises one customer service representative who recruits donors at Wal-Mart blood drives.[8] The customer service representative confers with the collections staff periodically to monitor donor flow and at the end of the drive to obtain results.

The **communication specialist** provides information both internally and externally, acts as the Employer's spokesperson, works on the Employer's newsletter and coordinates media drives. Bufford testified that this individual, whose first name is Angela, is not in his department and is a manager.

Employer's Exhibit 12 shows a total of five administrative assistants in the donor recruitment department, one at level I, three at level II and one at level III. Bufford testified that the **administrative assistant I** is based in Springfield and is responsible for data entry of drive information for the DRRs, manages promotional material for the DRRs and performs some telerecruiting. He also testified that the **administrative assistant IIs**

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[8] Bufford testified that a second customer service representative reports to Goodwin.

are lead persons primarily responsible for the DRRs' promotional material and for inputting drive information into the collection scheduling system. Bufford testified that the administrative assistant III that is listed on Employer's Exhibit 12 as being in Springfield, had transferred to the collections department and is now the collections scheduler.

As noted in the 2000 Decision, all donor recruitment department classifications except the customer service representative work at assigned desks and perform a portion of their daily work assignments there. All donor recruitment department employees, except the administrative assistants, are paid a salary and are eligible for a bonus under the Employer's incentive plan.

Although the Employer contends that its donor recruitment operations are functionally integrated with its blood collection functions, the donor recruitment department has a function that is distinct and different from the whole blood collections department. Thus, I find there is a lack of functional integration.

While there is some limited interaction between DRRs and MUAs at the mobile blood drives, there is insufficient evidence that the contact is for any significant period of time. I find that contact is not sufficient to overcome the differences in wage structure, duties and other working conditions between donor recruitment employees and the employees in the whole blood collections department. In particular, all of the DR employees, except the administrative assistants, are paid a salary and are eligible for a bonus. Conversely, the whole blood collections employees in the unit are hourly paid and are ineligible for bonus pay. Lastly, assuming the transfer from "donor services"[9] into the whole blood collections department involved a transfer from the donor recruitment or

[9] The department could also have been the donor *suitability* department.

telerecruiting departments, I find that single transfer is insufficient to compel inclusion of these employees. Accordingly, I shall exclude donor recruitment department and telerecruiting department employees from the unit found appropriate here.

Information Services Department

Employer's Exhibit 12 shows two employees in the information services department, both located in Little Rock. One is classified as a network specialist and the other as a "S. Application Specialist." No evidence was proffered at the hearing concerning this department or these classifications but they would appear to be the specialist and an application specialist in the information services department that were discussed in the 2000 Decision.

As described in the 2000 Decision, the information services department is responsible for user support and maintenance of the Employer's computer infrastructure and telecommunication systems. The **network specialist** is stationed in the computer room, but probably spends 20 percent or less of his time there; the rest of his time is spent responding to calls from employees with computer-related problems. The **applications specialist** focuses on software applications and the telephone system. Both employees are high school graduates. The network specialist has worked in the computer field for 30 years, including many years as a programmer, and has received training in network management. The applications specialist completed a computer literacy course at a local technical college taught by the IS supervisor. Both employees are paid a salary and wear business casual clothing. They are separately supervised from other employees.

While these employees, like the eBDR system specialist, work with computers, in view of their separate supervision and in the absence of further evidence regarding the

wages and working conditions of these employees, I find insufficient evidence to require their inclusion in the unit and shall exclude these two employees from the unit found appropriate here.

Volunteer Services Department

In Employer's Exhibit 1, the Employer lists the classifications of region volunteer coordinator and volunteer clerical assistant II as positions it seeks to include in the unit. However, in Employer's Exhibit 12, the Employer lists only one employee in the volunteer services department, a volunteer clerical assistant II that is based in Little Rock. The hearing record contains little information concerning these employees and the 2000 Decision makes no mention of the volunteer services department or its employees.

The **region volunteer coordinator** arranges for volunteers for blood drives based upon information received from the donor recruitment representative that made initial arrangements for the drive. The **volunteer clerical assistant II** schedules the volunteers. According to Burgess, the charge or supervisor for the collection staff is responsible for contacting the volunteer coordinator and requesting a particular number of volunteers to assist on the drive. No evidence was adduced that either the volunteer coordinator or the clerical assistant are ever present at blood drives or have any significant interaction with the whole blood collection employees. In light of the foregoing, I will exclude these two classifications in the volunteer services department from the unit found appropriate here.

Education Department

The education department includes four education coordinators and one document control specialist. All employees in this department are based in Little Rock, except for one education coordinator that works in Springfield. Chris Patton, the education

department manager, testified that two of the **education coordinators**, including the one located in Springfield, are responsible for training new employees in the collections department. The coordinator based in Little Rock provides training for the Little Rock and Jonesboro based employees and the coordinator in Springfield trains new employees at that location. A second education coordinator in Little Rock is responsible for supervisory training, volunteer orientation, and new employee orientation. The third coordinator in Little Rock is responsible for developing and maintaining regulated training documents for the education department. The **document control specialist** is responsible for reviewing and updating the manuals for the hospital services department.

Patton testified that new collections staff participate in one week of general new employee training and three weeks of new staff collections training. Patton also testified that one of the education coordinators conducts quarterly reviews in which the employee visits mobiles and fixed sites to determine if training needs exist for the staff.

As set forth in the 2000 Decision, the Employer requires education coordinators to have a bachelor's degree or the equivalent (e.g., associate degree with years of training) and the education coordinators are paid a salary while the document control specialist is paid on an hourly basis.

Education coordinators have higher educational requirements than any of the included employees and, contrary to the included employees, are paid a salary. There is no evidence of commonality of duties or functions with the included employees; nor is there evidence of similar job requirements. There is no evidence of recent employee transfers between the education department and the whole blood collections department. Based on

these distinctions, I shall exclude the education department employees from the unit found appropriate here.

General Services Department

The general services department is responsible for general warehousing, purchasing, vehicle fleet maintenance and facilities maintenance. The nine employees in this department consist of four biomedical equipment technicians, two general maintenance technicians, one quality assurance specialist, one stock inventory assistant I, and one stock inventory assistant II.[10] According to Employer's Exhibit 12, all general service department employees are based in Little Rock, except for the stock inventory assistant I, who is based in Springfield.

The **biomedical equipment technicians** are responsible for validation testing, equipment calibration, preventive and corrective maintenance of the biomedical machines and equipment used by the lab, hospital services staff, and collections staff.

The **general maintenance technicians** are responsible for routine maintenance and upkeep of the Employer's facilities and vehicles.

The **quality assurance specialist** develops validations plans for new equipment to ensure that the equipment operates at proficiency levels. Although Employer's Exhibit 12 lists this employee as being based in Little Rock, General Services Department Manager Keith Stevens testified that this employee actually works out of her home located outside of Little Rock.

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[10] Although the 2000 Decision stated that the general services department had an administrative assistant, neither Employer's Exhibit 12 nor department manager Stevens indicate that the department currently has such a position.

The **stock inventory assistants I and II** manage the inventory and maintain appropriate stock levels for all supplies used by the region.

Stevens testified that when supplies are needed by collection staffs, the collection inventory coordinator in the collections department, an MUA, or anyone else may request supplies using the appropriate requisition form. These requests are then processed by the stock inventory assistant and supplies may be delivered to locations outside of Little Rock using the hospital services department couriers.

The general services department warehouse is located in Little Rock in a separate building behind the main facility. Based on the 2000 Decision, it appears that all general service department employees are hourly paid. Their hours of work are not known, except that Stevens testified that one of the department's staff is on call 24-hours a day to respond to issues involving vehicles.

Two employee witnesses denied that they have any direct contact or communication with general services department employees. One employee noted that if there is an equipment malfunction or other problem, the charge staff or the MUA may call for service, but not a collection technician or collection specialist.

The general services department employees have job responsibilities that are different from the whole blood collection employees in that they do not deal with donors or the public in performing their jobs. There is no evidence of commonality of duties or functions with the included employees; nor is there evidence of similar job requirements. There is no evidence of employee transfers between the general services department and the whole blood collections department. Based on these distinctions, I shall exclude the general services department employees from the unit found appropriate here.

Hospital Services/Product Management Department

The hospital services (HS) department, also referred to as the product management department, is composed of about 26 employees. Employer's Exhibit 12 lists the following classifications and locations for employees in this department: one administrative assistant II in Little Rock; five HS couriers in Little Rock, two in Springfield and two in Jonesboro; five HS technician I employees in Little Rock, three in Springfield, and three in Jonesboro; four HS technician II employees in Little Rock and one in Springfield. HS Department Manager John Bradford testified that he has two HS technician I employees who are based in Memphis who also perform a courier function at that location. It is unclear if these two employees are already reflected in the numbers shown for this department in Employer's Exhibit 12, or if they are in addition to the 11 HS technician Is shown on that document.

Bradford testified that the **administrative assistant II** in his department is primarily responsible for scheduling paid couriers and volunteer couriers. This employee also ensures that the HS vans have gasoline and occasionally functions as a courier when the need arises. The **HS technicians I and II** are responsible for the "triage process" which is the procedure for transferring blood products from the collections staff to the HS department and ensuring that all items are labeled and counted correctly prior to the delivery of these products to the lab. The HS technicians may interact with the MUA or other collections staff when a discrepancy exists. According to Bradford, any triage discrepancies will trigger the recently implemented problem management system to determine the cause of the error.[11]

[11] This appears to be the problem management system that is handled by employees in the donor suitability department.

HS couriers pick up the blood products from the fixed and mobile collection sites and also deliver these products to the lab staff in Little Rock after the triage process is complete. As already mentioned, the couriers also deliver supplies to the Jonesboro and Springfield locations from the Employer's warehouse in Little Rock.

In the 2000 Decision, it was noted that when the lab completed its testing and processing of the blood products, the couriers delivered blood products to the Employer's customers, hospitals and other health care facilities. The hearing record does not clearly indicate if couriers continue to perform this function. It is assumed that the HS employees continue to work on a 24-hour a day schedule and are paid hourly, as stated in the 2000 Decision.

Two employee witnesses testified that the MUA is responsible for packing the blood products, filling out the transport receiving sheet, and delivering the blood to a courier or directly to hospital services staff at a fixed site. They denied that the collections staff has contact with the HS department staff other than the MUA interface just described. The Employer presented no evidence of employee transfers between the HS department and the whole blood collections department.

Although there are factors which support both the inclusion and exclusion of HS department employees in the unit, I find that based on the record as a whole, the community of interest of the HS employees is not sufficiently strong to mandate their inclusion in the unit. These employees do not interact with donors, a core function of the collections staff. In addition, while many of these employees spend time traveling, like the collections staff, the couriers spend only limited periods of time at mobile collection sites at the conclusion of a drive to retrieve the collected blood. Thus I conclude that the

distinct and different job functions of the HS department employees do not require their inclusion in the unit.

Technical Services Department

The technical services department includes the Employer's laboratory and testing operations located in its Little Rock facility. This department presently has four different areas: a reference laboratory, a preparation laboratory (also referred to as the QC lab), a component manufacturing laboratory, and a laboratory area. All technical service department employees, approximately 28 total, are based in Little Rock.

The reference laboratory performs routine blood typing and testing and supports hospitals and physicians by running additional tests to determine a patient's compatibility with certain blood products. The reference lab employs four **reference laboratory technologists**, who are trained medical technologists. These individuals are required to have an associates degree in medical technology or a bachelors degree in science with a certificate in medical technology. The same degree or certificate requirements exist for the nine employees classified as laboratory technologist I who work in the lab area.

The preparation laboratory is used to test apheresis donor specimens. The preparation lab has two employees: one diversity coordinator and one QC specialist. The **diversity coordinator** is responsible for coordinating the Employer's diversity initiatives. This employee works from her home in Little Rock. The **QC specialist** manages the quality control documents for the department. Neither of these employees perform any laboratory tests nor do they handle donor blood.

The component laboratory is responsible for separating out particular blood components, such as white blood cells or plasma. The component lab employs one

individual classified as a **laboratory technician**, two employees in **laboratory technician I** positions, five employees classified as **laboratory technician II**, three employees in the position of **technical assistant**, and two employees classified as **technical assistant II**. The technical assistants and laboratory technicians perform the processes necessary to isolate the blood components. The technical assistant classifications reflect entry-level positions. The laboratory technicians and assistants do not require the specialized degree or certificate that the lab technologist position requires.

As noted in the 2000 Decision, the technical services department operates 24-hours a day. All nonsupervisory employees are paid hourly. They do not wear uniforms, but are required to wear lab coats, gloves, and protective eyewear. The technical services employees do not draw blood from donors, but simply test and process the collected blood. There is no evidence that employees have transferred between the technical services department and any other department, including whole blood collections.

Although these employees handle blood products, they are not involved in the collection process and do not interact with donors. They work only at the Employer's Little Rock facility. There is no evidence of transfers or other interchange with the employees in the petitioned-for unit. The technical services employees also have wholly separate supervision from the collections staff. In light of the foregoing, I find that there is an insufficient community of interest with these employees to require their inclusion in the unit found appropriate here.

V. CONCLUSIONS AND FINDINGS

Based on the entire record in this proceeding, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. The Petitioner is a labor organization and claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

> **INCLUDED:** All full-time and regular part-time employees in the Little Rock and Jonesboro whole blood collections department, including collection technicians, mobile unit assistants, collections specialists, compliance specialist II, collection inventory coordinator, clerical assistant I, eBDR system specialist, and special donations coordinators employed in the whole blood collections department at the Employer's facilities in Little Rock and Jonesboro Arkansas.
>
> **EXCLUDED:** All other employees including confidential employees, office clerical and professional employees, guards, and supervisors as defined in the Act.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by United Food and Commercial Workers, Local 2008, AFL-CIO, CLC. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full

names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 1407 Union Avenue, Suite 800, Memphis, TN 38104, on or before **December 28, 2004**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (901) 544-0008 or at (615) 736-7761. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **January 4, 2005.** The request may **not** be filed by facsimile.

Dated at Memphis, Tennessee, this 21st day of December 2004.

/S/

Dorothy D. Wilson
Acting Regional Director
Region 26, National Labor Relations Board
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